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Paper No. 5

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In re Application of
Yang et al.
Application No. 10/076,120
Filed: February 12, 2002
Attorney Docket No. 122-2.1

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OFFICE OF PETITIONS

: DECISION GRANTING
: PETITION
: :

This is a decision on the petition filed July 8, 2002, to establish that Figure 6 was part of the originally filed application.

On February 12, 2002, the application was filed.

On April 4, 2002, the Office of Initial Patent Examination mailed a Notice stating that the application had been accorded a filing date of February 12, 2002, and advising applicants that Figure 6 described in the specification appeared to have been omitted.

In response, the present petition was filed alleging that Figure 6 was deposited on February 12, 2002. In support, petitioner has submitted a postcard receipt which acknowledges receipt of "Formal Drawings, 8 sheets" on February 12, 2002.¹ Petitioner has also submitted a copy of the missing documentation- sheet 6 consisting of Figure 6.

Upon review of the record, Figure 6, deposited on February 12, 2002, has not been located. However, the evidence is convincing that the application papers deposited on February 12, 2002, included Figure 6, and that Figure 6 was subsequently misplaced in the PTO.

In view of the above, the petition is granted. The copy of Figure 6 submitted with the petition will be used for examination purposes.

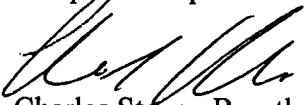
No petition fee is required and none has been charged.

The Notice mailed April 4, 2002, is hereby vacated to the extent that the Notice stated Figure 6 was omitted.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of February 12, 2002, using the application papers filed on February 12, 2002, and the copy of Figure 6 filed on July 8, 2002.

¹ Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.


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